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by deleting all sections after the enacting clause, and by substituting instead the following new sections:

SECTION 1. Tennessee Code Annotated, Section 71-5-152, is amended by deleting the language of the section after the word "which" in the first sentence and by substituting instead the following:

shall hereafter be called the TennCare drug utilization review board. This board shall be responsible for the ongoing development, approval and evaluation of an authorized minimum drug formulary, as well as the establishment of prior approval and medical necessity standards to be utilized by managed care organizations under contract with the State to provide health care services in conjunction with the TennCare program. The board shall also be responsible for the development and evaluation of retrospective and prospective drug utilization program criteria under the TennCare program. The duties of the board shall include those set forth in the federal Omnibus Budget Reconciliation Act of 1990, Drug Utilization Review Requirements, and these duties shall survive any federal law changes or repeals. The board shall provide appropriate notice of its actions to the departments of health, finance and administration, and commerce and insurance.

SECTION 2. Tennessee Code Annotated, Section 71-5-153, subdivisions (1) and (2), are amended by deleting the language "Tennessee medicaid program" and substituting instead the language "TennCare program". Subdivision (1) is further amended by adding the following

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language at the end of the sentence: "one (1) of which shall be a member of the Volunteer State Medical Association. Subdivision (3) is amended by deleting the words "Pharmaceutical Manufacturers Association" and by substituting instead the words "Pharmaceutical Research and Manufacturers of America". Subdivision (4) is further amended by deleting the words "bureau of medicaid's" and by substituting instead the words "TennCare Bureau with expertise in medicine and pharmacology". Subdivision (5) is further amended by deleting it in its entirety and by substituting instead the following new subdivisions:

(5) a nurse practitioner selected from a list submitted in alternating years first by the Tennessee Nurses Association and then by the Tennessee Black Nurses Association;

(6) a TennCare enrollee;

(7) a member of the state senate designated by the speaker of the senate;

(8) a member of the state house of representatives appointed by the speaker of the house; and

(9) the governor may reject any or all of the nonlegislative recommendations, in which case the nominating process shall continue until appointments are finalized by the commissioner.

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Tennessee Code Annotated, Section 71-5-153, is further amended by designating the existing language as subsection (a) and adding the following language to be designated as subsection (b):

(b) No board member or ex-officio member shall have an employment or contractual relationship with a managed care organization (except for any physician who provides health care services to TennCare patients or enrollees) or an ownership interest in a managed care organization, or a subcontractor thereof, which contracts with the state or any managed care organization, to provide health care services under the TennCare program; nor shall a board member or ex-officio member have an employment or ownership interest in or contractual relationship with a pharmaceutical company.

SECTION 3. Tennessee Code Annotated, Section 71-5-157, is amended by adding the following new subsections:

(e) The board shall be responsible for the ongoing development, evaluation, approval, and oversight of an authorized formulary which, at a minimum, must be implemented by all managed care organizations which contract with the State to provide health care services under the TennCare program. Such authorized formulary shall be based upon factors including, but not necessarily limited to, (1) acquisition costs, (2) therapeutic equivalence, (3) clinical efficacy, (4) total cost of therapy, and (5) accommodation of racial and sexual differences in the

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metabolization and efficaciousness of drugs, so as to assure that the authorized formulary will have no disproportionately negative impact on any minority group. In addition, the board shall evaluate all potential or actual costs for required additional TennCare benefits or health care services, and potential therapeutic benefits for, or harm to, TennCare patients resulting from exclusion of any pharmaceutical on the authorized formulary. Nothing in this section shall be construed as restricting an MCO's power to authorize the inclusion of additional drugs on its formulary in addition to those included on the authorized formulary.

(f) The board shall utilize any available rules submitted by the department of health with respect to clinical protocols.

(g) The board shall utilize rules and regulations developed by the department of health with respect to generic substitution.

(h) The board shall promulgate rules pursuant to the applicable provisions of the Tennessee Uniform Administrative Procedures Act ("TUAPA"), T.C.A. §§ 4-5-201 et seq., that provide procedures whereby all interested parties, including health care practitioners, providers, health care product suppliers, managed care organizations participating in TennCare, TennCare enrollees, or any interested person on behalf of the enrollee shall have input into the development, approval, ongoing assessment and evaluation of the authorized formulary, and the individual

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inclusion in, or exclusion of, any particular drug or pharmaceutical compound from the authorized formulary.

(i) The board shall adopt uniform standards, processes, and requirements for the development and use of standards for prior approval and medical necessity determinations prior to the approval of any formulary.

(j) Any interested party dissatisfied with any decision by the board shall have the right to initiate and pursue a contested case proceeding pursuant to the provisions of the TUAPA.

(k) The board shall meet at least quarterly and shall conduct its next meeting no later than sixty (60) days after the effective date of this act.

SECTION 4. Tennessee Code Annotated, Section 71, Chapter 5, is further amended by adding a new section 160. Each following section shall be redesignated appropriately:

Section 71-5-160. In order to ensure that patients have an adequate understanding of health care options and of insurance coverage and exclusions so that they can be informed and educated consumers, all insurance plans and managed care organizations must provide to potential enrollees a written disclosure of treatment policies. This information shall include any exclusions or restrictions of services including, but not limited to, choice of physicians and pharmacies, referral to specialty physicians and other providers, clinical laboratory tests, diagnostic tests including mammography exams and screening tests for prostate cancer, dental

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services, coverage of prescription drugs, including the use of formularies and prior approval procedures, and mental health services. Such information must be current and made available to any potential enrollee prior to enrollment and filed with the Department of Commerce and Insurance at least thirty (30) days prior to any open enrollment period. Formularies previously approved by this board are not subject to change without review and approval by the board.

If board grants approval for change in the formulary, any such changes must be communicated to enrollees and filed with the Department of Commence and Insurance at least thirty (30) days prior to implementation of such change.

SECTION 5. This act shall take effect upon becoming law, the public welfare requiring it.